

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Investigation on the Commission's Own Motion  
Into the Operations and Practices of Pacific Gas  
and Electric Company; Notice of Opportunity for  
Hearing; and Order to Show Cause Why the  
Commission Should Not Impose Fines and  
Sanctions for the December 20, 2003 PG&E  
Mission Substation Fire and Electric Outage  
Pursuant to Public Utilities Code Section 451.

Investigation 05-03-011  
(Filed March 17, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING REGARDING  
CONFIDENTIALITY OF PORTIONS OF PREPARED TESTIMONY  
AND STIPULATION TO MARK EXHIBITS FOR IDENTIFICATION**

**Summary**

This ruling resolves outstanding confidentially matters concerning three investigative reports and formally identifies prepared testimony which was not identified at either of the prehearing conferences (PHCs).

**Discussion**

**A. Joint Motion for Protective Order; Supplement**

By Joint Motion for a Protective Order filed on September 12, 2005, and Supplement to Motion for Protective Order filed on October 14, 2005, Pacific Gas and Electric Company (PG&E) and the Commission's Consumer Protection and Safety Division (CPSD) ask the Commission to place portions of three investigative reports under seal: Exhibit (Ex.) 1, CPSD's "Investigation Report on PG&E Mission Substation Fire and Outage," dated October 20, 2004; Ex. 100, PG&E's "Mission Substation December 20, 2003 Event Report," dated

August 20, 2004; and Ex. 101, PG&E's "Indoor Substation Status Report," dated May 20, 2005.

The Joint Motion states that each of the three reports "contains confidential information regarding the location and/or configuration of PG&E's electric distribution system" and has been provided pursuant to Pub. Util. Code § 583 "for security reasons." (Joint Motion, p. 1.) The Supplement supports the motion by including (1) as Appendix A, a list of pages of Ex. 1, 100 and 101 on which redactions appear together with a general description of the redacted content, and (2) as Appendix B, the declaration of Terry A. Morford, the Senior Director of PG&E's Transmission and Operations Project Services. Morford explains why PG&E considers each piece of redacted information to be confidential, e.g., "because it could be used to disrupt the transmission and distribution systems serving San Francisco and the Peninsula." (Supplement, Appendix B, Paragraph 3.)

The Commission's General Order (GO) 66-C governs public disclosure of information obtained by the Commission. As relevant here, exclusions from disclosure may apply to:

Records or information of a confidential nature furnished to, or obtained by the Commission. (GO 66-C (2.2).)

Though the information the parties seek to seal does not fall within one of the categories explicitly listed within GO 66-C (2.2), that section of the general order provides that the list is not exclusive. The pleadings make a persuasive case that release of this information could aid acts of terrorism or sabotage, which would be contrary to the public interest. The information should be placed under seal, as specified in the ruling paragraphs.

**B. Exhibits Received in Evidence**

By joint motion filed October 18, 2005, the three parties to this proceeding, PG&E, CPSD and the City and County of San Francisco (CCSF) reasonably agree that prepared testimony that was not identified at either of the PHCs should be identified as indicated in Attachment A to this ruling.

**IT IS RULED that:**

1. The prepared testimony distributed but not previously marked for identification by the Commission's Consumer Protection and Safety Division, Pacific Gas and Electric Company (PG&E) and the City and County of San Francisco is marked for identification as shown in Attachment A, effective on the date of this ruling.

2. The unredacted text of Exhibits 1, 100 and 101 shall be received under seal. The unredacted text of Exhibits 1, 100 and 101 shall not be made accessible or be disclosed to anyone other than Commission staff except on the further order or ruling of the Commission, the Assigned Commissioner, the assigned Administrative Law Judge (ALJ), or the ALJ then designated as Law and Motion Judge, which order shall be entered only after notice to PG&E and an opportunity to be heard.

Dated November 15, 2005, at San Francisco, California.

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/s/ JEAN VIETH  
Jean Vieth  
Administrative Law Judge

**Attachment A**

| <b>Ex. #</b> | <b>Sponsor/Witness</b> | <b>Description</b>  |
|--------------|------------------------|---|
| <b>4</b>     | <b>CPSD/Clark</b>      | <b>Testimony of Richard W. Clark<br/>July 15, 2005</b>                  |
| <b>5</b>     | <b>CPSD/Turner</b>     | <b>Testimony of Robert M. Turner<br/>July 15, 2005</b>                  |
| <b>6</b>     | <b>CPSD/Turner</b>     | <b>Reply Testimony of Robert M. Turner<br/>August 31, 2005</b>          |
|              |                        |   |
| <b>200</b>   | <b>CPSD/Franklin</b>   | <b>Testimony of Captain Dave Franklin<br/>July 15, 2005</b>             |
| <b>201</b>   | <b>CPSD/Hale</b>       | <b>Testimony of Barbara Hale<br/>July 15, 2005</b>                      |
| <b>202</b>   | <b>CPSD/Franklin</b>   | <b>Rebuttal Testimony of Captain David Franklin<br/>August 31, 2005</b> |
| <b>203</b>   | <b>CPSD/Hale</b>       | <b>Rebuttal Testimony of Barbara Hale<br/>August 31, 2005</b>           |

**(End of Attachment A)**

## **CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Confidentiality of Portions of Prepared Testimony Stipulation to Mark Exhibits for Identification on all parties of record in this proceeding or their attorneys of record.

Dated November 15, 2005, at San Francisco, California.

/s/ ELIZABETH LEWIS  
Elizabeth Lewis

## **N O T I C E**

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